

## **REMARKS**

This Amendment responds to the Office Action dated July 5, 2005. A diligent effort has been made to respond to all of the objections and rejections contained in the Office Action and reconsideration is respectfully requested.

### **A. Status of the Claims**

Claims 6-9; 14; 17-22; 27-35; 41-43 and 45 were previously pending in this application. Claim 14 has now been cancelled. Claims 6, 18, and 42-43 are currently amended. The remaining claims are unchanged. New claims 53-71 are added herewith.

### **B. Information Disclosure Statements**

The office action indicates that the Information Disclosure Statements filed on 5-15-02, 11-25-02, 3-24-03, and 10-28-03 fail to comply with 37 CFR 1.98 because no PTO-1449 forms are on the record. Attached to this Amendment at Tab A is the 1449 for the 5-15-02 IDS, which was already initialed by the Examiner in this case on January 9, 2004. Attached at Tab B is the 1449 for the 11-25-02 IDS, which was already initialed by the Examiner in this case on January 9, 2004. Attached at Tab C is the 1449 for the 3-24-03 IDS, which was already initialed by the Examiner in this case on January 9, 2004. Attached at Tab D is the 1449 for the 10-28-03 IDS, which was already initialed by the Examiner in this case on January 9, 2004.

Applicants previously requested that the Examiner consider and return the initialed 1449 for the IDS filed on August 30, 2002. Applicants renew that request. Attached at Tab E is the 1449 for the 8-30-02 IDS.

C. Objection to Claim 18

Claim 18 has now been amended to overcome the objection thereto.

D. Objection to the Drawings

Applicants submit herewith corrected/replacement drawing sheets to cure any deficiencies in the labeling thereof. Applicants have diligently reviewed the specification and drawings in order to determine and correct any such deficiencies. The Examiner specifically referred to items 110b and 130 in Figure 1, item 240 in Figure 2, and items 312, 313 and 316 in Figure 5. Regarding Figure 1, item 110b has been deleted therefrom. Item 110a has also been deleted as this label does not appear in the specification. Item 130, however, is referenced at page 9, line 10 of the specification and thus has not been deleted. Regarding Figure 2, item 240 has been amended to recite the proper label, which is item 250. In addition, the label 220 has been removed from this figure and also from Figure 3. Regarding Figure 5, items 312, 313 and 316 are described and referred to in the specification at p. 19, ll. 17-24. No correction to this figure is therefore being made. Labels 220 and 240 are removed from Figure 6. Label 220 is removed from Figure 7. The remaining figures are unchanged.

E. Section 112 Rejection of Claim 42

The section 112 rejection of claim 42 has now been overcome by this Amendment. Claim 42 has been amended to clarify that for each of the commands on the command list, the device outputs a voice mail system operating command.

F. Section 103 Rejections

Independent claims 6 and 18 were rejected under 35 USC 103 over Smith (US 6,333,973) in view of Rodriguez (US 6,580,784). The remaining dependent claims were rejected over these references, or over these references in view of several other references. These rejections are traversed.

Claim 6, as now amended, is clearly distinguishable from Smith in view of Rodriguez. Specifically, claim 6 recites that a command signal is transmitted from the mobile communication device to the unified messaging system via the wireless data communication channel, wherein the command signal include the message retrieval command. The message retrieval command is then supplied to the voice mail system component and in response thereto, the voice mail system component initiates a voice call to the wireless mobile communication device via the voice communication channel and subsequently transmits the voice mail message to the device via that communication channel.

Smith, by distinction, only teaches that in response to receiving a notification of a voice mail message, *the mobile device initiates a voice call to the voice mail system* to retrieve the message. See, for example, column 9, lines 54-60 of Smith: “When the user wants to listen to the voice mail message after viewing the voice mail notification message, the user selects the voice mail icon corresponding to the voice message from the message center display (FIGS.7A and 7B). In response, mobile telephone 1100 establishes a connection with network services provider 1200 over the voice B-Channel.”

Rodriguez does not supply the missing teaching from Smith. In Rodriguez, a voice mail system is pre-programmed to initiate a phone call to a user’s mobile device upon receiving

certain messages that are identified as “urgent.” These “urgent” messages are either pre-programmed as such by the user at the voice mail system, or the caller leaving the message is permitted to designate the message as “urgent.” See, for example, column 2, ll. 37-42: “The subscriber can indicate whether he would like all calls treated as urgent calls, all calls treated as normal calls, or select which callers are treated as urgent based upon caller id information. The subscriber can also allow the caller to indicate a priority.”

The combination of Smith and Rodriguez, therefore, does not teach or describe the claimed elements set forth above. More specifically, the combination does not teach that a command message generated at the mobile device *and transmitted over a wireless data network* can be used to cause a voice mail system to initiate a voice call to the mobile device and then to deliver the voice mail message via the voice call. In fact, Smith is limited to the mobile device dialing the voice mail system and initiating the voice call, and Rodriguez is limited to programming the voice mail system, *a priori*, to initiate a voice call in certain predetermined situations. Moreover, Rodriguez is primarily directed to voice networks, and does not teach any type of command or control channel via a wireless data network.

Finally, even if these two references, *arguendo*, disclosed the claimed subject matter, there has been no identifiable motivation to combine these two references other than the Examiner’s conclusory statement in the Office Action that it would be convenient to do so. Simply stating that it would be convenient to combine the references is insufficient to make out a motivation to combine, and thus the rejection fails to make out a *prima facie* case of obviousness under 35 USC 103 and the applicable MPEP regulations. There would be no motivation to combine Smith with Rodriguez precisely because in Smith the mobile device initiates the voice call to obtain the messages. And there would be no motivation to combine Rodriguez with

Smith because Rodriguez doesn't teach anything about remotely controlling a voice mail system over a wireless data network. Absent some suggestion or motivation to combine these references, the rejection of claim 6 must be withdrawn.

Independent claims 18 and 53 are distinguishable from these two references for essentially the same reasons as claim 6, as are the claims that depend from all of these claims. New claim 71 also distinguishes from these references, for these same reasons, and also because claim 71 recites that the mobile device includes means for automatically answering the voice call initiated by the voice mail system and receiving the stored voice mail message. In this manner, the user of the mobile device need not dial or physically answer the voice call to/from the voice mail system in order to retrieve the stored voice mail message.

G. Rule 131 Declaration Removes Rodriguez

The 103 rejections over Rodriguez must also be withdrawn in view of the included Declaration of Prior Invention under 37 CFR 1.131, transmitted herewith. This Declaration establishes that the claimed invention predates the filing date of Rodriguez, and thus all of the rejections over this reference must be withdrawn.

Respectfully submitted,

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A handwritten signature in black ink, reading "David B. Cochran". The signature is written in a cursive, flowing style with a large initial "D".

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